

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JONNET DEVELOPMENT CORP.,	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 05-1264
	)	
MUNICIPALITY OF MONROEVILLE	)	
and SHELLY A. KALTENBAUGH, in her	)	
official and individual capacities,	)	
Defendants.	)	

**MEMORANDUM ORDER**

This matter is before the Court on a Motion of Defendant Shelly Kaltenbaugh, in her Individual Capacity, to Dismiss Plaintiff's Amended Complaint (Including Qualified Immunity, Quasi-Judicial Immunity, and Absolute Witness Immunity) or, in the alternative, for more Definite Statement [DE 66], filed by Defendant Shelly Kaltenbaugh in her individual capacity on November 19, 2006, and a Motion of Defendant Municipality of Monroeville (Including Defendant Shelly Kaltenbaugh in her Official Capacity) to Dismiss Amended Complaint [DE 68], filed by Defendants the Municipality of Monroeville and Shelly Kaltenbaugh in her official capacity also filed on November 19, 2006.

Since January 10, 2007, the motions have been fully briefed.<sup>1</sup> However, the Court has refrained from ruling thereon based on the parties on-going settlement negotiations (spanning approximately six months) as to the instant matter and a related state court matter. While the parties continue to engage in settlement discussions, the Court cannot refrain any longer.

Furthermore, considering the age of the First Amended Complaint and intervening case law as to the appropriate pleading standard, in particularly *Bell Atlantic Corporation v. Twombly*, --- U.S.

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<sup>1</sup>This case was reassigned to the undersigned Judge on April 6, 2007.

---, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007) and *Phillips v. Count of Allegheny*, --- F.3d ---, 2008 WL 305025, at \*2-7 (3d Cir. Feb. 5, 2008), the guidance of which the Plaintiff did not have the benefit when filing its First Amended Complaint, the Court finds that it is appropriate for the parties to bring up to date their aged pleadings and motions.

Accordingly, the Court DENIES without prejudice and with leave to re-file at a later date (if necessary) the Motion of Defendant Shelly Kaltenbaugh, in her Individual Capacity, to Dismiss Plaintiff's Amended Complaint (Including Qualified Immunity, Quasi-Judicial Immunity, and Absolute Witness Immunity) or, in the alternative, for more Definite Statement [DE 66] as well as the Motion of Defendant Municipality of Monroeville (Including Defendant Shelly Kaltenbaugh in her Official Capacity) to Dismiss Amended Complaint [DE 68]. The Court ORDERS Plaintiff to file an amended complaint in compliance with the above noted case law on or before March 24, 2008 and Defendants shall file a responsive pleading or other motion by April 14, 2008.

s/Nora Barry Fischer  
Nora Barry Fischer  
United States District Judge

cc/ecf: All counsel of record.

Date: February 22, 2008.